

REMARKS

This Amendment is in response to the Final Office Action dated October 30, 2007. The Examiner set a shortened statutory period for reply of three (3) months, making the present Amendment due by January 30, 2008. Accompanying this amendment is a Petition for a three-month extension of time and appropriate fee, making this amendment due on April 30, 2008

In the present paper, claims 1, 3-5, 8, 13 and 14 remain in the application.

The Specification

In the Official Action, the Examiner has objected to the Abstract as not being limited within the range of 50-150 words. Applicants have amended the Abstract which is now in proper form.

In the Office Action, claims 1, 4, 5 and 14 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schofield, (European Patent Publication EP 679810) ("Schofield"), claims 3 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schofield in view of U.S. Patent No. 4,696,627 to Asano et al. ("Asano et al.") and claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Schofield in view of U.S. Patent No. 4,919,599 issued to Reich et al. ("Reich et al.").

Applicants traverse this rejection and request reconsideration in view of the following remarks.

Notwithstanding the Examiner's assertions to the contrary, Applicants respectfully submit that Schofield does not identically disclose each of the claim elements of any of rejected claims 1, 4, 5 or 14.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131

(quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Schofield is incorrectly asserted by the Examiner to disclose, in part, a scroll compressor having “... a fixed scroll wall ... and an orbiting scroll wall ... which together define ... flow paths having respective inlets ... for simultaneously pumping at different pressures...” as is claimed in rejected independent claims 1 and 5, and rejected dependent claims 4 and 14. (Office Action paragraph 2)

Schofield discloses a scroll with a multiple start position where there are two or more inlets (20, 21 and 22) all with the same inlet plenum to increase initial pumping capacity from a system to be evacuated. The inlets are all attached to the same system being evacuated and are all at the same pressure. ((See Schofield Figure 2 elements 20, 21 and 22 and column 3 lines 23-27, “There is shown [Figure 2] an initial multi-start portion including three inlets 20, 21 and 22 to the pump all of which are arranged in use to receive gas from a single source, i.e. a chamber (or whatever being evacuated by the pump)).”

Applicants respectfully submit that for at least this reason, rejected independent claims 1 and 5 which claim that the “fixed scroll wall and orbiting scroll wall together define ... flow paths having ... inlets for simultaneous pumping at different pressures” are not anticipated by Schofield. Similarly rejected dependent claim 4 which claims that “the pressure at the second inlet during pumping is higher than the pressure at the first inlet” and which also depends from independent claim 1 is similarly not anticipated by Schofield. And, rejected claim 14 which claims that “the pressure at the second inlet during pumping is lower than the pressure at the first inlet” and which depends from independent claim 13 is also not anticipated by Schofield for the same reason. Applicants respectfully submit that the rejection of claims 1, 4, 5 and 14 be withdrawn.

The Examiner rejected claim 3 as obvious over Schofield in view of Asano et al. Applicants traverse this rejection and seek favorable reconsideration in view of the following remarks.

As stated above, Schofield does not disclose that the inlets are at different pressures as claimed in claim 1 from which claim 3 depends, but teach that they are at the same pressure. In addition, Asano et al. fails to teach that the “first and second flow paths converge to form a merged flow path” as also claimed in claim 1 from which claim 3 depends. And, as previously asserted by Applicants in response to the now withdrawn rejection in the February 12, 2007 of claim 1 as being anticipated by Asano et al., working chambers 30, 31 of Asano et al. do not merge to form a merged flow path, but are instead separate flow paths that communicate only to discharge at the discharge port 27a.

Applicants respectfully submit that in view of the failure of Schofield to disclose that the inlets are at different pressures as claimed in claim 1, and the failure of Asano et al. to disclose that the first and second flow paths converge to form a merged flow path as is also claimed in claim 1, that claim 3, which depends from claim 1, is not rendered obvious.

The Examiner has rejected independent claim 8 as obvious over Schofield in view of Reich et al. Applicants traverse this rejection and seek favorable reconsideration in view of the following remarks.

Schofield does not disclose the claimed invention with the exception, as purported by the Examiner, of failing “to disclose a turbomolecular pump being between the first chamber for pumping at low pressure and the scroll compressor.” [Office Action paragraph 4].

As discussed above, Schofield does not disclose that the inlets are at different pressures. In addition, although the Examiner asserts that it would be obvious to utilize the turbomolecular pump, as taught by Reich et al., in the Schofield apparatus to render claim 8 unpatentable, Applicants respectfully submit that Reich et al. discloses that both of the exhausts from different turbo/secondary pumps attach to the same inlet of the primary pump, and it would therefore not have been obvious to one of ordinary skill in the art at the time of the invention was made to attach the inlets from the different secondary pumps to different stages or turns of the scroll mechanism. Accordingly, Applicants submit that claim 8 is not rendered obvious over Schofield

in view of Reich et al. for at least the above two stated reasons and request that this rejection be withdrawn.

The Examiner rejected independent claim 13 as obvious over Schofield in view of Asano et al. Applicants traverse this rejection and seek favorable reconsideration in view of the following remarks.

Applicants respectfully submit that Schofield does not disclose, as asserted by the Examiner, the invention with the exception of disclosing “a position of the second inlet with respect to the first flow path.” (Paragraph 5 of Office Action) As discussed above, Schofield does not disclose that the inlets are at different pressures.

In addition, the Examiner incorrectly further asserts that “Asano teaches that it is conventional in the scroll compressor art to utilize the second inlet being isolated from the first flow path by one revolution of the fixed scroll wall, ...” Applicants submit that independent claim 13 requires that “the second flow path extends from the second inlet through 360° where it merges with the first flow path” is not disclosed by Asano et al. Asano et al. does not teach “merging” of the first and second flow paths, but instead that the flow paths end at the discharge outlet 27a.

Moreover, even if one were to assume, *arguendo*, that Asano et al. teaches that the first and second flow paths “merged” at the discharge outlet 27a, such merging would be at least two revolutions, or 720°, from the second inlet. (See each inlet 9 and 11 being isolated from the opposite working chamber by at least two revolutions of the fixed scroll wall in Fig 7.) Accordingly, Asano et al. does not teach nor does Asano et al. render obvious as is required by claim 13 that the “second flow path extends from the second inlet through 360° where it merges with the first flow path.” In view of the foregoing, Applicants submit that Schofield in combination with Asano et al. do not render claim 13 obvious and that this rejection should be withdrawn.

Conclusion

Applicants therefore assert that pending claims 1, 3-5, 8, 13 and 14 are in condition for allowance, and earnestly request that the Examiner issue a Notice of Allowance.


Applicants request that the Amendment After Final be entered because it is in compliance with a requirement of form as to the Abstract as set forth in the Office Action in paragraph 1.

Should the Examiner have any questions regarding the present case, the Examiner should not hesitate in contacting the undersigned at the number provided below.

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